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UNCLAS SECTION 01 OF 02 ROME 004134

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FROM THE U.S. MISSION TO THE UN AGENCIES IN ROME

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SUBJECT: UNIDROIT GENERAL ASSEMBLY MEETING OF DECEMBER 1

REF: A) ROME 8483 B) ROME 2162 C) ROME 780

1. Summary: the General Assembly of the International Institute for the Unification of Private Law (UNIDROIT) met on December 1 to review the organization's work and to approve the budget for 2006 and the program of work for the upcoming triennium (2006-08). The Secretary General (SYG) provided an update on the hiring of a Deputy Secretary General (DSYG) (ref B) as well as an assessment of current arrears. The budget for 2006 was approved as recommended by the Finance Committee (ref A), and the UNIDROIT statutes were amended to reflect an earlier ad-hoc committee recommendation (ref C) on a method of guaranteeing geographic representation on the Governing Council. Finally, the U.S. will remain a member of the Finance Committee for the 2006-08 triennium. End Summary.

2. On December 1, the UNIDROIT General Assembly met at the organization's headquarters in Rome. After electing the Portuguese perm rep as chair for the session and approving the agenda, the secretariat presented an overview of the Institute's activities for 2005 as well as an update on the hiring of a Deputy Secretary General. Regarding UNIDROIT's current projects, the draft protocol regarding International Interests in Mobile Equipment on Matters Specific to Space Assets is behind schedule, primarily because the organization's principal research officer is also the acting DSYG and his time has been otherwise occupied. The Institute had hoped to organize a conference in early 2006, hosted by Hungary, regarding the Railway Rolling Stock protocol. Unfortunately the GOH has decided against hosting, so UNIDROIT is searching for another venue and is still hopeful to hold a conference later in the year. The draft convention on intermediary-held securities is on schedule, and the aircraft protocol of the Cape Town Convention will come into force on March 1, 2006, with Ireland, Malaysia and Oman as the newest signatories.

3. Regarding the hiring of a Deputy Secretary General, interviews were conducted and a candidate identified and approved by the Governing Council. Though the new candidate has not yet been named, post can confirm that it is not Martin Stanford, the acting DSYG and principal research officer. However, it is likely that the Secretary General will name both Stanford and the new

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candidate as co-deputies, per his prerogative under Article 8(2) of the UNIDROIT statutes (naming Stanford co-Deputy Secretary General will have no impact on the organization's budget). The SYG seemed pleased at the number of high quality candidates, particularly considering that the organization was only able to offer a one-year guaranteed contract (specifics regarding the reasons for the short-term contract, mainly related to a one-time-only contribution from the UK with no provision for out-years, are laid out in ref B).

4. Responding to a question from one member state, the SYG began his presentation of the program of work for the 2006-08 triennium with an explanation of the Institute's method of devising the program. He said the Governing Council is responsible for drafting the program, with assistance from the secretariat, only after extensive consultation with member states (Note: it is important to keep in mind that Governing Council members serve in their own personal capacity as legal experts rather than on specific behalf of member state governments. End Note). Once a proposal is on the table, it is evaluated against four basic criteria: is there a need for such a project? Is it feasible to complete the project within a specific time frame? Can another organization do the job better? And finally, do developing countries stand to gain from the project's completion? For 2006-08, UNIDROIT will continue with its current work on the protocols and draft convention mentioned above and will likely add a fourth protocol to the Cape Town Convention regarding agricultural, construction and mining equipment. In addition, there

are plans for the formation of a sub-committee on registration for space assets, a space assets working group meeting tentatively slated for September 2006, and a public services questionnaire.

15. The budget for 2006, including a 3.1% increase in expenditures, was approved by the GA as recommended by the Finance Committee (ref A). This increase is almost entirely attributable to the hiring of a new Deputy SYG and will result in an increase in member state contributions of approximately 1.25%. USDEL reiterated the U.S. policy of zero nominal growth and, while recognizing the need to hire a new Deputy SYG and thanking the UK for their one-time contribution, expressed concern for the years beyond 2006, for which no provision has yet been made. This concern was echoed by others. USDEL also confirmed U.S. interest in continuing as a member of the Finance Committee and in fact secured a seat for the 2006-08 triennium. Regarding arrears, the Institute finds itself in a better position than at any time over the last several years. Total arrears stand at 186,000 euro after payments from Venezuela, Colombia and Nigeria. In addition, Brazil committed to clearing all of its arrears (a further 57,000 euro) by December 31, 2005. USDEL applauded UNIDROIT for its successful efforts, while cautioning that further reductions are needed, particularly given the additional expenses related to the hiring of a new DSYG.

16. There followed discussion and approval of a change to Article 7 of the UNIDROIT statutes, which deals with elections to the Governing Council. Member states believed a change to the statutes was warranted after not a single African representative was elected to the Council at the November 2003 elections. An ad hoc committee, formed to deal with the issue, met in February 2005 (ref C) and recommended to the GA a minimalist guarantee of geographic representation by dividing the world into four regions (Asia, Africa, Europe and the Americas). Most interventions were favorable, though many member states (including the U.S.) expressed concern about the division into only four regions. Latin Americans were particularly forceful in their desire to be represented as a group and de-linked with North America. USDEL also advocated periodic review of the new formula.

17. Comment: the GA was attended by representatives of 37 nations. Besides those interventions already mentioned, USDEL encouraged UNIDROIT on two fronts: first, to make sure that work and strategic plans are aligned with the resources available and that the Governing Council, which does not deal directly with the resource question, is aware of this and advocating with their member governments on behalf of the Institute. Second, UNIDROIT must do a better job of specifying to its member states the real, tangible benefits of the treaties, conventions and protocols it produces. Long buried in the legal and intellectual details of its day to day work, UNIDROIT can help itself by explaining how its end products will directly affect the welfare of its member nations, which will in turn offer increasing support to this underfunded organization. End comment.

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